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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/079.611    05/15/98    MONTGOMERY    M    6371-1

PM21/0106  
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EXAMINER

LEE, J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3672

DATE MAILED:

01/06/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/079,611**

Applicant(s)  
**Montgomery**

Examiner  
**Jong-Suk (James) Lee**

Group Art Unit  
**3672**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 7-10 is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on May 15, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Art Unit: 3672

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**DETAILED ACTION**

1. The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 3672.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference no.20 as recited on page 10, line 24; ref. no. 108 as recited on page 9, line 2 in the specification. Correction is required.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference nos. 1-5, 7 and 9 in Fig. 1. Correction is required.

4. The drawings are objected because in Fig. 10, the abbreviation line for the gate/ vent door is not shown. Correction is required.

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*Specification*

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should be amended to be commensurate with the claimed invention, i.e., **Flood Gate and Method for Ventilating and Relieving Tidal Flooding From Enclosed Foundation Crawl Space.**

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “at least one catch” as recited in claim 5, at line 3 does not have clear antecedent basis for the terminology in the specification.

7. The disclosure is objected to because of the following informalities:

Page 2, line 14: “No. 3,680,239” should be --No. 3, 680,329--.

Appropriate correction is required.

*Claim Objections*

8. Claims 2-6 and 8-10 are objected to because of the following informalities:

Claims 2-6, line 1 respectively: “A flood gate” should be --The flood gate--.

Claims 8-10, line 1 respectively: “A method” should be --The method--.

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1 Claim 4, line 1: "said louver assembly" should be --said automatic louver assembly-- for  
2 clarity.

3 Claim 10, line 3: "utidal" should be --tidal-- for correcting typographical error.

4  
5 Appropriate correction is required.

6  
7 *Claim Rejections - 35 USC § 112*

8 9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

9 The specification shall conclude with one or more claims particularly pointing out and  
10 distinctly claiming the subject matter which the applicant regards as his invention.  
11

12 10. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for  
13 failing to particularly point out and distinctly claim the subject matter which applicant regards as  
14 the invention.

15 Re claims 1 and 6: The phrase, "and the like" in claim 1, line 1 and 12-13; in claim 6, line  
16 6 and 7 respectively renders the claim(s) indefinite because the claim(s) include(s)  
17 elements not actually disclosed (those encompassed by "and the like"), thereby rendering  
18 the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).  
19

20 Re claim 6: The limitation, "said screen" lacks clear antecedent basis. The claim appears to

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1 be dependent upon claim 2. Accordingly, it is suggested to be --said screen covering-- for  
2 clarity.

3  
4 Appropriate correction is required.

5  
6 *Allowable Subject Matter*

7 11. Claims 1-6 would be allowable if rewritten to overcome the rejection(s) under 35  
8 U.S.C. 112 set forth in this Office action.

9 12. Claims 7-10 are allowable over the prior art of record.

10  
11 *Priority*

12 13. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-  
13 (d). The certified copy of the priority documents have been received in this national stage  
14 application from the international Bureau (PCT Rule 17.2 (a)).

15  
16 *Conclusion*

17 14. The prior art made of record and not relied upon is considered pertinent to applicant's  
18 disclosure: Trunkel et al. discloses an adaptable, temperature-responsive, powerful-fan foundation  
19 ventilator apparatus includes a louver housing defining an air passageway; Sarazen, Jr. et al.

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1 shows a temperature and humidity controlled fan for ventilating a building foundation; Calandra  
2 discloses a method of installing a ventilation device through existing plywood door closures of  
3 accesses to attic spaces with roof fans in homes; De wit discloses a weir construction having a  
4 flood gate tiltable around an axis suspended in a canal section; Sarazan et al. discloses an  
5 automatic temperature responsive ventilator including a housing having side walls defining an air  
6 passageway and an openwork grid across the passageway; Hensley shows an housing for  
7 foundation ventilator having a usual front screen to protect the louvers within the housing; Allred  
8 discloses a ventilating apparatus for building foundations in both brick and siding type structures;  
9 Herbert discloses a penstock for water flow control having a pivoting gate provided with edge  
10 seals to the flow channel; Bunger shows a pivotal canal gate, mounted in a predetermined size  
11 canal, opens and closes by a controllable weight movable in response to a float-switch mechanism  
12 for maintaining a predetermined level; McGinns discloses an automatic gate opener.

13           However, the prior art of record fails to disclose or fairly suggest a flood gate/vent door  
14 in a foundation crawl space, automatically vents tidal flood waters exceeding the minimum  
15 pressure level through the crawl space by swinging open the gate/door in the direction of the  
16 water flow in order to reduce a risk of structural damage from the tidal flood waters as  
17 specifically called for in the claimed combination.

18  
19 15. Any inquiry concerning this communication or earlier communications from the examiner

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1 should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The  
2 examiner can normally be reached between the hours of 7:00AM to 4:30PM Monday thru  
3 Thursday and every other Friday (second Friday of the bi-week). If attempts to reach the  
4 examiner by telephone are unsuccessful, the examiner's supervisor, Tamara Graysay , can be  
5 reached on (703) 308-2144. The fax phone number for this Group is (703) 305-3597.

6  
7 Any inquiry of a general nature or relating to the status of this application or proceeding  
8 should be directed to the Group receptionist whose telephone number is (703) 308-2168.

9  
10  
11 Jong-Suk (James) Lee JL

12 December 29, 1998

  
Tamara Graysay 12/31/98  
Supervisory Patent Examiner  
Group 3600